

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DALE MERILL, ADMINISTRATOR OF
THE MASHANTUCKET PEQUOT TRIBAL
NATIONAL HEALTH PLAN,

Plaintiff,

- against -

JIN DENG M.D. and JIN DENG MD
REHABILITATION, P.C.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/2/23

Civil Acton No.: 1:20-cv-10689-LLS

AMENDED SCHEDULING ORDER

Pursuant to this Court's Opinion & Order, entered on December 21, 2022, Plaintiff, Dale Merrill, Administrator of the Mashantucket Pequot Tribal National Health Plan (the "**Plaintiff**"), and Defendants, Jin Deng M.D. and Jin Deng MD Rehabilitation, P.C. (collectively, the "**Defendants**," and together with the Plaintiff, the "**Parties**") hereby propose the following Amended Scheduling Order:

1. A Rule 16(b) Conference was held on January 27, 2023. Appearing for the Plaintiff was Kenneth M. Lewis and Dennis J. Shaffer from Whiteford, Taylor, & Preston, L.L.P. Appearing for the Defendants was Wei Ji of Alliance Law PLLC.

2. Pursuant to Plaintiff's Complaint, Plaintiff, in her capacity as a plan fiduciary of the Mashantucket Pequot Tribal Nation Health Plan (the "**Plan**"), has asserted six claims for relief seeking, *inter alia*, damages against the Defendants in the amount of no less than \$247,284.55, together with prejudgment interest, plus reasonable attorneys' fees and costs, as well as an equitable lien or constructive trust, punitive damages, and a judgment restraining and enjoining the

Defendants from distributing, alienating, transferring, assigning, encumbering or otherwise disposing of their assets, related to \$247,284.55 in excess reimbursements, or overpayments made to Defendants, during the period 2016 through 2018, in connection with services provided to Plan participants.

3. Defendants assert that they have several issues pending. In addition to defending Plaintiff's claims that Defendants were not overpaid, as detailed in the affirmative defenses alleged in the answer, Defendants assert that Plaintiff had unreasonably and arbitrarily denied Defendants' lawful claims for payments of services performed on the beneficiaries or participants of the Plan, totaling \$595,943.98. Defendants allege two Counterclaims seeking \$595,943.98 from the Plaintiff to pay for unpaid medical services provided to the beneficiaries or participants of the Plan as an out-of-network medical service provider to the Plan.

4. The Parties propose the following schedule:

a. All written discovery is to be completed by no later than June 15, 2023.

b. Plaintiff's depositions of: (i) Defendant, Jin Deng M.D. in his personal capacity; (ii) a corporate designee representative of Jin Deng MD Rehabilitation, P.C.; and (iii) any additional fact witnesses identified by Plaintiff shall be completed by no later than August 15, 2023. Defendants' depositions of: (i) a corporate representative from Plaintiff; and (ii) any additional fact witnesses identified by Defendants shall be completed by no later than September 15, 2023.

c. The Parties will designate experts by August 15, 2023, and the Parties will exchange their expert reports, in compliance with Federal Rule of Civil Procedure 26, by September 15, 2023. The Parties will exchange any expert reports offered in rebuttal, in compliance with Federal Rule of Civil Procedure 26, by October 15, 2023. All expert

depositions will be completed no later than November 15, 2023.

d. Plaintiff will supply their pretrial order materials to Defendant no later than November 30, 2023.

e. The Parties will submit their pretrial order consistent with this Court's instructions no later than ~~November 30, 2023~~. ^{January 15, 2024.} LLS

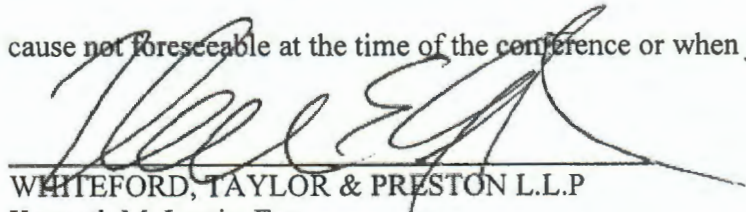
f. The final pretrial conference pursuant to Federal Rule of Civil Procedure will occur ~~on a date and time as set by the Court, as may be identified herein or by separate notice.~~ ^{on Friday January 19, 2024 at 12 o'clock noon.} LLS

5. The Parties will endeavor to avoid issuing discovery involving patient's personal health information. If this becomes necessary, the Parties may present this Court with a request for a protective order concerning the same.

6. Plaintiff anticipates having experts in the field of rehabilitative medicine and medical billing. Defendants anticipate experts in the field of rehabilitative medicine.

7. The Parties anticipate that this matter will take four (4) days of trial before a jury.

This Amended Scheduling Order shall be altered or amended only on a showing of good cause not foreseeable at the time of the conference or when justice so requires.

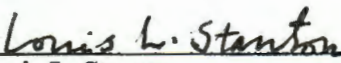

WHITEFORD, TAYLOR & PRESTON L.L.P
Kenneth M. Lewis, Esq.
Vernon E. Inge, Jr., Esq.
Dennis J. Shaffer, Esq. (Motion for *pro hac vice* submitted)
444 Madison Avenue, Fourth Floor
New York, NY 10022
(914) 761-8400
klewis@wtplaw.com
vinge@wtplaw.com
dshaffer@wtplaw.com

Attorneys for the Plaintiff


ALLIANCE LAW PLLC

Wei Ji, Esq
139 Centre Street, Suite 710
New York, NY 10013
(929) 312-8633
wji@alliancelaw.ne

Attorney for the Defendants


Hon. Louis L. Stanton
United States District Judge

2/2/23

12734051v2